

REMARKS/ARGUMENTS

Favorable reconsideration of this application, in light of the following discussion, is respectfully requested.

Claims 1-5, 10, and 13-18 are presently active; Claims 1 and 16 having been presently amended, and Claims 17-18 having been added.

In the outstanding Office Action, Claims 1-5, 10, and 13-14 were rejected under the judicially created doctrine of obviousness-type double patenting over Claims 12, 14, 15, 16, 18, and 19 in copending Application No. 10/618,651. Claims 1-5, 10, and 13-15 were rejected under 35 U.S.C. §103(b) as being unpatentable over Ushikoshi et al (U.S. Pat. No. 5,306,895) or Arena et al (U.S. Pat. No. 5,635,093) in view of Masanao (Jap. Pat. No. 09-045752), Hecht et al (U.S. Pat. No. 5,877,475), or Sasada et al (U.S. Pat. No. 5,176,451). Claims 5 and 16 were rejected under 35 U.S.C. §103(a) as being unpatentable over Ushikoshi et al or Arena et al in view of Masano, Hecht et al, or Sasada et al in further view of Yoshida et al (U.S. Pat. No. 6,080,970) and Kubota et al (U.S. Pat. No. 5,643,483), or Tsuyki et al (U.S. Pat. No. 5,068,517).

Applicants acknowledge with appreciation the courtesy of Examiner Paik to interview this case on December 22, 2004 during which the outstanding issues in the final Office Action were discussed as substantially summarized herein. No agreement on patentability was reached.

Applicants also acknowledge with appreciation the courtesy of Examiner Paik to correct the status of the outstanding Office Action to be a ***non-final*** Office Action, as noted on the Interview Summary Sheet.

As discussed during the interview, Applicants' representative pointed out that Hecht et al and Sasada et al are non-analogous art to the other applied art references. However,

Examiner Paik maintained that these references addressed a common problem and provided one of ordinary skill in the art motivation to combine.

While Applicant disagrees with this position, in order to expedite prosecution of this patent application, Claims 1 and 16 have been amended to define a pressing device, such as for example the pressing devices illustrated in Applicants' Figures 4 and 5. Specifically, Claims 1 and 16 define a pressing device including at least one of a screw and a rod body in which the pressing device is configured to press the sheath type thermocouple (or the temperature-measuring device) on the bottom portion of a bottomed hole of a ceramic plate.

Hecht et al applied for their teachings of pressing a temperature-measuring element show springs 17 and 18 bearing against an inner sleeve 16. Hecht et al do not disclose a pressing device including at least one of a screw and a rod body in which the pressing device is configured to press the sheath type thermocouple (or the temperature-measuring device) on the bottom portion of a bottomed hole of a ceramic plate. First of all, Hecht et al do not disclose a screw pressing device. Second of all, as shown in Figure 5, the inner sleeve 16 and not the thermocouple 12 is pressed against the glass ceramic plate 3 by spring 17. Likewise, as shown in Figure 6, the inner sleeve 16 and not the thermocouple 12 is pressed against the glass ceramic plate 3 by spring 18. Even if the inner sleeve 16 in Hecht et al were considered a rod body, then the inner sleeve in Hecht et al is not pressing the thermocouple 12 would not constitute a rod body pressing device configured to press a sheath type thermocouple (or a temperature-measuring device) on the bottom portion of a bottomed hole of the ceramic plate, as defined in Claims 1 and 16. Thus, independent Claims 1 and 16, and the claims dependent therefrom, are believed to patentably define over Hecht et al and the other applied prior art.

Sasada et al applied for their teachings of pressing a temperature-measuring element show a spring 28 urging upward lower plate 15. As discussed during the interview, Examiner Paik considers the upper and lower plates 4 and 15 to constitute a sheath type thermocouple.

While this assessment may not be accurate, nonetheless, there exists no element in Sasada et al that could be considered a rod body or a screw that presses the sheath type thermocouple (or a temperature-measuring device) on the bottom portion of a bottomed hole of a ceramic plate, as defined in Claims 1 and 16. Hence, independent Claims 1 and 16, and the claims dependent therefrom, are believed to patentably define over Sasada et al and the other applied prior art.

Regarding new dependent Claims 17 and 18, these claims further define that a sheath type thermocouple including a first portion extending toward the bottomed hole and a second portion connected to the first portion and extending along a surface of the bottomed hole with the second portion configured to be pressed by the pressing device against the bottom portion of the bottomed hole. While Masano show in Figure 4 a thermocouple having similar first and second portions, the hole in Masano for the thermocouple is filled with a material 52 that precludes the second portion of the thermocouple in Masano from being pressed by a screw or rod body pressing device. Hence, for these reasons and their dependence on independent Claims 1 and 16, Claims 17 and 18 are believed to patentably define over the applied prior art.

Finally, regarding the provisional double-patenting rejection, Applicants submit that a terminal disclaimer can be filed, if the claims in the present application and the claims in the co-pending Application No. 10/618,651 remain obvious in view of each other at the time of allowance of either of these applications. Indeed, M.P.E.P. § 804.02 IV states that, prior to issuance, it is necessary to disclaim each one of the double patenting references applied. Hence, Applicants respectfully request that the examiner contact the undersigned should the present arguments be accepted and should the case be otherwise in a condition for allowance. At that time, a terminal disclaimer can be supplied to expedite issuance of this case.

Application No. 09/926,092
Reply to Office Action dated October 6, 2004

Consequently, in light of the above discussions, the outstanding grounds for rejection are believed to have been overcome. The application is believed to be in condition for formal allowance. An early and favorable action to that effect is respectfully requested.


Respectfully Submitted,

OBLON, SPIVAK, McCLELLAND,
MAIER, & NEUSTADT, P.C.

CUSTOMER NUMBER
22850

Tel.: (703) 413-3000
Fax: (703) 413-2220

I:\ATTY\RAR\AMENDMENTS\213163US\AM3.DOC


Gregory J. Maier
Attorney of Record
Registration No.: 25,599
Ronald A. Rudder
Registration No. 45,618